

**BEFORE THE COMMISSIONER OF  
POLITICAL PRACTICES**

---

In the Matter of the	)	<b>SUMMARY OF FACTS</b>
Complaint Against	)	<b>AND</b>
Fred Thomas	)	<b>STATEMENT OF FINDINGS</b>

---

Peter Lethenstrom filed a complaint against Fred Thomas alleging that Thomas violated Montana campaign finance and practices laws by falsely claiming he had received certain endorsements during his 2000 campaign for the Montana Senate. Specifically, Lethenstrom contends that Thomas falsely claimed his candidacy was endorsed by the Ravalli County Electric Co-op and the Montana Electric Cooperatives' Association.

**SUMMARY OF FACTS**

1. Fred Thomas was a successful candidate for Senate District 31 in the November, 2000 general election.

2. One of Thomas's campaign brochures included the following entry:

"Senator Thomas is working to protect Montana customers on one of the most complex issues ever to face this state. He has worked hard to protect Montana's customer-owned electric cooperatives, including the member-owners of Ravalli Electric Co-op."

-- *Richard J. Brown General Manager Ravalli County REA.*

3. Richard Brown is the general manager of the Ravalli County Electric Co-op. He wrote a letter to the Editor of the Stevensville Star newspaper, dated September 18, 2000. The letter was written on Ravalli County Electric Co-op letterhead. Brown explained that he wrote the letter to "clear up some misconceptions" that had become apparent in previous items printed in the newspaper. While he did not specifically intend the letter as an endorsement of Senator Thomas's candidacy, he did not have a problem with Thomas using excerpts from it in his campaign literature. Thomas requested permission from Brown to use several sentences from the letter in his

campaign flyer, and Brown authorized him to do so since Brown viewed the letter as a “public statement.”

4. Thomas distributed a campaign letter addressed “Dear Voter,” which stated: “My reelection has been endorsed by the Montana Electrical Cooperative Association, . . . .”

5. The Montana Electric Cooperatives’ Association is a non-profit, statewide trade association that represents a number of consumer-owned electric cooperatives throughout Montana. Montana ACRE, which stands for the “Action Committee for Rural Electrification,” is the political action committee for the Montana Electric Cooperatives’ Association and its affiliated customer-owned electric cooperatives.

6. Montana ACRE sent a letter, dated September 15, 2000, to Thomas. The letter referred to an enclosed contribution to Senator Thomas and stated:

Montana ACRE is a Political Action Committee representing Montana’s customer-based electric cooperatives, which serve nearly half the state’s population. Please accept this contribution as an expression of our support for your candidacy. We believe you to be a fair-minded person who is willing to sincerely listen and consider the perspectives of our electric cooperatives regarding various public policy issues facing the electric industry.

The letter was signed by Dave Wheelihan, Executive Vice President of ACRE. Wheelihan is also the General Manager of the Montana Electric Cooperatives’ Association.

7. Wheelihan believes that the support of Thomas’s candidacy by Montana ACRE is equivalent to support of Thomas’s candidacy by the Montana Electric Cooperatives’ Association.

### **STATEMENT OF FINDINGS**

The complaint alleges that Thomas misled the public “by using false, unauthorized endorsements” in his campaign. It does not specify what provision of Montana law was allegedly violated. Two sections of Montana law within my jurisdiction

prohibit false statements or misrepresentations in campaigns. Montana Code Annotated § 13-35-234 prohibits any person from 1) making a false statement or charge “reflecting on any candidate’s character or morality,” or 2) knowingly misrepresenting “the voting record or position on public issues of any candidate.” This statute obviously does not address the conduct alleged in the complaint.

Montana Code Annotated § 13-37-131 provides:

(1) It is unlawful for a person to misrepresent a candidate’s public voting record or any other matter that is relevant to the issues of the campaign with knowledge that the assertion is false or with a reckless disregard of whether or not the assertion is false. [Emphasis added].

Violation of Montana Code Annotated § 13-37-131 can result in a civil penalty of up to \$1,000. A candidate who falsely claims that his or her candidacy has been endorsed by a person or organization may have misrepresented a “matter that is relevant to the issues of the campaign.”

The evidence disclosed during this investigation does not establish a violation of Montana Code Annotated § 13-37-131. Senator Thomas’s inclusion in his campaign literature of several sentences from the letter to the Editor written by Richard J. Brown was not portrayed by Thomas as an endorsement by Brown or by the Ravalli County Electric Co-op. Senator Thomas’s representation in his campaign letter that his reelection “has been endorsed by the Montana Electrical Cooperative Association” was based on the letter he received from Montana ACRE, the political action committee of the Montana Electrical Cooperatives’ Association. While the letter referred to Montana ACRE’s “support” of Thomas’s candidacy, the words “support” and “endorse” are synonymous, within the context in which they were used in each letter. See Merriam-Webster’s Collegiate Dictionary, Tenth Edition (1993). There is no evidence that Senator Thomas misrepresented a matter that is relevant to the issues of the campaign.

//

## **CONCLUSION**

Based on the preceding Summary of Facts and Statement of Findings, there is insufficient evidence to justify a civil or criminal prosecution based on allegations that Senator Fred Thomas violated Montana campaign finance and practices laws.

Dated this \_\_\_\_\_ day of March, 2001.

---

Linda L. Vaughey  
Commissioner